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Federal Communications Commission
1919 M Street NW
Washington, D.C. 20554

FEDERAL COMM COMMISSION
OFFICE OF THE
SECRETARY

Rm - 7669

Sirs:

Recently the Norfolk office of the FCC cited several amateur radio stations for automatically forwarding an improper message through the national packet radio mail system. The Norfolk office alleges that these stations violated FCC rule 97.113a, which prohibits transmissions of communications that facilitate the business or commercial affairs of any party.

These citations reveal a serious flaw in part 97 that must be corrected. The problem is that the interpretation of 97.113a by the Norfolk FCC office has the defacto effect of prohibiting automatic forwarding of messages through packet radio stations, contrary to the intent of 97.109(d) and 97.109(e). These latter rules specifically allow forwarding of third party traffic by stations under automatic control using AX.25 packet radio protocol. It is unfair and illogical to cite operators of automatically controlled stations for the *content* of messages passed under the authority of 97.109(e).

The Commission states in 97.109(e) that the *originator* of a retransmitted message must be "a station that is being locally or remotely controlled". A reasonable person will conclude that it is the *originator* of packet messages who is be accountable for the *content* of messages relayed through packet radio. Application of 97.113 message content rules to automatic stations operating under the guidance of 97.109 is not fair, and surely is not what the commission intends in 97.109 (d) (e).

The Commission has previously expressed its concern regarding the

1) Proven ability to efficiently forward large quantities of emergency and health-and-welfare traffic from disaster areas. (97.1 (a))

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2) Potential to increase spectrum use efficiency by use of modern digital techniques such as high speed redundant channel techniques. (97.1 (b) (c))

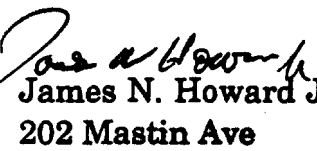
3) Enabling amateurs with modest VHF stations to engage in world wide communications. (97.1 (d) (e))

I urge the commission to clarify 97.113 to affirm that stations under automatic control are not responsible for the content of messages passed while operating in accordance with 97.109 (d) (e). While operators of automatic stations should delete any improper messages they become aware of, it is not practical for these licensees to review each of the literally thousands of messages which active packet mail relay stations handle each month. Responsibility for message content must rest with the originating control operator, as implied in 97.109 (d) (e).

If left unchallenged, the Norfolk Office application of 97.113 to packet radio operations effectively repeals 97.109 (d) (e), prohibits space operations, and revokes existing STA's for HF automatic operation. This action is not in the best interest of the Amateur service or the Nation at large, and must be corrected.

Please let me add in closing that I have been very active on packet for several years, and can attest that the message in question was highly atypical of the vast majority of packet radio traffic. The system operators and users of the national packet network do a good job of self policing, and further restrictions on the government's part are unwarranted.

Sincerely, 73


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